

By: Zaffirini

S.B. No. 2036

A BILL TO BE ENTITLED

1 AN ACT
2 relating to liability insurance or other proof of financial
3 responsibility for persons holding certain alcoholic beverage
4 permits; authorizing a fee.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter A, Chapter 11, Alcoholic Beverage
7 Code, is amended by adding Sections 11.14 and 11.15 to read as
8 follows:

9 Sec. 11.14. LIABILITY INSURANCE REQUIREMENT. (a) This
10 section does not apply to the holder of a food and beverage
11 certificate.

12 (b) Except as provided by Section 11.15, a person may not
13 hold a permit allowing the person to sell alcoholic beverages for
14 on-premises consumption unless the person establishes financial
15 responsibility by maintaining a liability insurance policy:

16 (1) issued by an insurance company authorized to write
17 liability insurance in this state or an eligible surplus lines
18 insurer; and

19 (2) that, subject to Subsection (e), will pay, on
20 behalf of the permit holder or a person who sells or serves
21 alcoholic beverages under the authority of the permit holder's
22 permit, amounts the permit holder or person becomes obligated to
23 pay as damages arising out of the sale or service of alcoholic
24 beverages.

1 (c) The commission shall adopt rules relating to:

2 (1) subject to Subsection (d), the minimum amounts of
3 insurance coverage that are required under this section, which must
4 be at least:

5 (A) \$500,000 for each occurrence; and

6 (B) \$1 million for any annual aggregate limit;

7 (2) the method for filing proof of insurance and
8 obtaining the commission's approval under this section; and

9 (3) verification by the commission of a permit
10 holder's continued maintenance of the required insurance coverage.

11 (d) The minimum amounts of insurance coverage required
12 under this section for a permit holder that is a governmental unit,
13 as defined by Section 101.001, Civil Practice and Remedies Code,
14 are the amounts of the liability limits applicable to the
15 governmental unit under Section 101.023, Civil Practice and
16 Remedies Code. A governmental unit subject to this section may
17 satisfy the insurance requirements of this section through a
18 self-insurance fund or program established under Section 2259.031,
19 Government Code, or Chapter 791, Government Code.

20 (e) A person may not recover from the proceeds of an
21 insurance policy held by the permit holder for purposes of this
22 section damages arising out of the sale or service of an alcoholic
23 beverage to the person if, at the time of the sale or service, the
24 person was obviously intoxicated or a minor.

25 Sec. 11.15. BOND IN LIEU OF INSURANCE. (a) A person may
26 establish financial responsibility for purposes of Section 11.14
27 without maintaining an insurance policy by filing with the

1 commission a bond:

2 (1) with at least two individual sureties, each of
3 whom owns real property in this state that is not exempt from
4 execution under the constitution or laws of this state;

5 (2) conditioned for payment in the amounts and under
6 the same circumstances as required under a liability insurance
7 policy sufficient to meet the requirements of Section 11.14;

8 (3) that is not cancelable before the sixth day after
9 the date the commission receives written notice of the
10 cancellation;

11 (4) accompanied by a fee prescribed by the commission;
12 and

13 (5) approved by the commission.

14 (b) The real property required by Subsection (a)(1) must be
15 described in the bond approved by a judge of a court of record. The
16 assessor-collector of the county in which the property is located
17 must certify the property as free of any tax lien. The sureties in
18 combination must have equity in the property in an amount equal to
19 at least twice the amount of the bond.

20 (c) The bond is a lien in favor of the state on the real
21 property described in the bond. The lien exists in favor of a
22 person who holds a final judgment against the person who filed the
23 bond.

24 (d) On the filing of a bond, the commission shall issue to
25 the person who filed the bond a certificate of compliance with this
26 section.

27 (e) The commission shall file notice of the bond in the

1 office of the county clerk of the county in which the real property
2 is located. The notice must include a description of the property
3 described in the bond. The county clerk or the county clerk's
4 deputy, on receipt of the notice, shall acknowledge the notice and
5 record it in the lien records. The recording of the notice is
6 notice in accordance with statutes governing the recordation of a
7 lien on real property.

8 (f) If a judgment rendered against the person who files a
9 bond under this section is not satisfied before the 61st day after
10 the date the judgment becomes final, the judgment creditor, for the
11 judgment creditor's own use and benefit and at the judgment
12 creditor's expense, may bring an action in the name of the state
13 against the sureties on the bond, including an action to foreclose a
14 lien on the real property of a surety. The foreclosure action must
15 be brought in the same manner as, and is subject to the law
16 applicable to, an action to foreclose a mortgage on real property.

17 (g) Cancellation of a bond filed under this section does not
18 prevent recovery for a right or cause of action arising before the
19 date of the cancellation.

20 SECTION 2. (a) The changes in law made by this Act apply to
21 a person who applies for a permit for the sale of alcoholic
22 beverages for on-premises consumption on or after January 1, 2018,
23 and to a person who, on January 1, 2018, holds a permit for the sale
24 of alcoholic beverages for on-premises consumption regardless of
25 when the permit or license was issued.

26 (b) The Texas Alcoholic Beverage Commission shall adopt all
27 rules necessary to implement the changes made by this Act not later

1 than December 31, 2017.

2 SECTION 3. This Act takes effect September 1, 2017.